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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES FRANKLIN SCHLENSKER,

Defendant.

CR 18-96-BLG-SPW

OFFER OF PROOF

The United States, represented by Assistant U.S. Attorney John D. Sullivan, files the following offer of proof in anticipation of the change of plea hearing set in this case on August 23, 2018.

THE CHARGES

The defendant, James Franklin Schlensker, is charged by indictment with

possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i).

The indictment also contains a forfeiture count, which seeks the forfeiture of \$1,440 in United States Currency.

PLEA AGREEMENT

There is no plea agreement in this case. Schlensker has indicated that he will plead guilty to the indictment without the benefit of a plea agreement. In the government's view, this is the most favorable resolution for the defendant. *See Missouri v. Frye*, 566 U.S. 133 (2012).

ELEMENTS OF THE CHARGES

In order for the defendant to be found guilty of the charge of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), as charged in count I of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed a substance containing a detectable amount of methamphetamine; and

Second, the defendant possessed it with the intent to deliver it to another person.

In addition, while not a formal element of the offense, the United States must also prove beyond a reasonable doubt that the defendant

possessed, with the intent to distribute, 50 or more grams of a substance containing a detectable amount of methamphetamine.

In order for the defendant to be found guilty of the charge of possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), as charged in count II of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant committed the crime of possession with intent to distribute methamphetamine, which is a drug trafficking crime; and

Second, the defendant knowingly possessed a firearm, that is a Springfield Armory, model 1911, .45 semi-automatic pistol (serial number NM301820); and

Third, the defendant possessed the firearm in furtherance of the crime charged in count I of the indictment.

A person “possesses” a firearm if the person knows of its presence and has physical control of it, or knows of its presence and has the power and intention to control it.

PENALTY

The charge contained in count I of the indictment carries a mandatory minimum punishment of five years to life imprisonment, a \$5,000,000 fine, at least four years of supervised release, and a \$100 special assessment. The charge contained in count II carries a mandatory minimum punishment of five years to life imprisonment, consecutive to any other sentence, a \$250,000 fine, five years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

Around 1:00 a.m. on the morning of July 1, 2018, officers with the Billings Police Department were dispatched to the Billings Hotel and Convention Center after an anonymous caller reported that an individual in Room 2015 was in possession of drugs and a firearm. When officers arrived at the hotel, they were informed that the defendant, James Schlensker, was the only registered guest in Room 2015. Schlensker was located in the hotel lobby and arrested on an outstanding parole warrant. After his arrest, the on-duty Montana Probation and Parole officer requested that the BPD officers conduct a search of Schlensker's hotel room. Inside Room 2015, they located approximately 330 grams of suspected methamphetamine along with scales and other paraphernalia used in drug trafficking. They also found a Springfield Armory, model 1911, .45 caliber semi-automatic pistol (serial number NM301820) with eight live rounds of ammunition. When Schlensker was booked at the Yellowstone County Detention Facility later that morning, approximately \$1,440 in U.S. Currency was discovered on his person. The suspected methamphetamine recovered from Schlensker's room tested presumptive positive for the presence of methamphetamine.

DATED this 21st day of August, 2018.

KURT G. ALME
United States Attorney

/s/ John D. Sullivan
JOHN D. SULLIVAN
Assistant U.S. Attorney